

Department of Veterans Affairs

§ 20.1

Subpart I—Evidence

- 20.800 Rule 800. Submission of additional evidence after initiation of appeal.
20.801–20.899 [Reserved]

Subpart J—Action by the Board

- 20.900 Rule 900. Order of consideration of appeals.
20.901 Rule 901. Medical opinions and opinions of the General Counsel.
20.902 Rule 902. Filing of requests for the procurement of opinions.
20.903 Rule 903. Notification of evidence to be considered by the Board and opportunity for response.
20.904 Rule 904. Vacating a decision.
20.905–20.999 [Reserved]

Subpart K—Reconsideration

- 20.1000 Rule 1000. When reconsideration is accorded.
20.1001 Rule 1001. Filing and disposition of motion for reconsideration.
20.1002 Rule 1002. [Reserved]
20.1003 Rule 1003. Hearings on reconsideration.
20.1004–20.1099 [Reserved]

Subpart L—Finality

- 20.1100 Rule 1100. Finality of decisions of the Board.
20.1101 Rule 1101. [Reserved]
20.1102 Rule 1102. Harmless error.
20.1103 Rule 1103. Finality of determinations of the agency of original jurisdiction where appeal is not perfected.
20.1104 Rule 1104. Finality of determinations of the agency of original jurisdiction affirmed on appeal.
20.1105 Rule 1105. New claim after promulgation of appellate decision.
20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime.
20.1107–20.1199 [Reserved]

Subpart M—Privacy Act

- 20.1200 Rule 1200. Privacy Act request—appeal pending.
20.1201 Rule 1201. Amendment of appellate decisions.
20.1202–20.1299 [Reserved]

Subpart N—Miscellaneous

- 20.1300 Rule 1300. Removal of Board records.
20.1301 Rule 1301. Disclosure of information.
20.1302 Rule 1302. Death of appellant during pendency of appeal.
20.1303 Rule 1303. Nonprecedential nature of Board decisions.
20.1304 Rule 1304. Request for change in representation, request for personal hearing,

or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.

Subpart O—Revision of Decisions on Grounds of Clear and Unmistakable Error

- 20.1400 Rule 1400. Motions to revise Board decisions.
20.1401 Rule 1401. Definitions.
20.1402 Rule 1402. Inapplicability of other rules.
20.1403 Rule 1403. What constitutes clear and unmistakable error; what does not.
20.1404 Rule 1404. Filing and pleading requirements; withdrawal.
20.1405 Rule 1405. Disposition.
20.1406 Rule 1406. Effect of revision; discontinuance or reduction of benefits.
20.1407 Rule 1407. Motions by the Board.
20.1408 Rule 1408. Special rules for simultaneously contested claims.
20.1409 Rule 1409. Finality and appeal.
20.1410 Rule 1410. Stays pending court action.
20.1411 Rule 1411. Relationship to other statutes.

Subpart P—Expedited Claims Adjudication Initiative—Pilot Program

- 20.1500 Rule 1500. Expedited Claims Adjudication Initiative.
20.1501 Rule 1501. Definitions.
20.1502 Rule 1502. Eligibility.
20.1503 Rule 1503. Election, identification of evidence, and representation.
20.1504 Rule 1504. Time limits.
20.1505 Rule 1505. Review of initial benefits claim decision.
20.1506 Rule 1506. Board review of cases.
20.1507 Rule 1507. Hearings.
20.1508 Rule 1508. Waiver.
20.1509 Rule 1509. Compliance and revocation of participation.
20.1510 Rule 1510. Termination of the Initiative.

APPENDIX A TO PART 20—CROSS-REFERENCES

AUTHORITY: 38 U.S.C. 501(a) and as noted in specific sections.

SOURCE: 57 FR 4109, Feb. 3, 1992, unless otherwise noted.

Subpart A—General

§ 20.1 Rule 1. Purpose and construction of Rules of Practice.

(a) *Purpose.* These rules establish the practices and procedures governing appeals to the Board of Veterans' Appeals.

(Authority: 38 U.S.C. 501(a), 7102, 7104)

§ 20.2

38 CFR Ch. I (7–1–13 Edition)

(b) *Construction.* These rules are to be construed to secure a just and speedy decision in every appeal.

(Authority: 38 U.S.C. 501(a), 5107, 7104)

§ 20.2 Rule 2. Procedure in absence of specific Rule of Practice.

Where in any instance there is no applicable rule or procedure, the Chairman may prescribe a procedure which is consistent with the provisions of title 38, United States Code, and these rules.

(Authority: 38 U.S.C. 501(a), 512(a), 7102, 7104)

§ 20.3 Rule 3. Definitions.

As used in these Rules:

(a) *Agency of original jurisdiction* means the Department of Veterans Affairs activity or administration, that is, the Veterans Benefits Administration, Veterans Health Administration, or National Cemetery Administration, that made the initial determination on a claim.

(b) *Agent* means a person who has met the standards and qualifications for accreditation outlined in § 14.629(b) of this chapter and who has been properly designated under the provisions of Rule 604 (§ 20.604 of this part). It does not include representatives recognized under Rules 602, 603, or 605 (§ 20.602, 20.603, or § 20.605 of this part).

(c) *Appellant* means a claimant who has initiated an appeal to the Board of Veterans' Appeals by filing a Notice of Disagreement pursuant to the provisions of 38 U.S.C. 7105.

(d) *Attorney-at-law* means a member in good standing of a State bar.

(e) *Benefit* means any payment, service, commodity, function, or status, entitlement to which is determined under laws administered by the Department of Veterans Affairs pertaining to veterans and their dependents and survivors.

(f) *Claim* means application made under title 38, United States Code, and implementing directives for entitlement to Department of Veterans Affairs benefits or for the continuation or increase of such benefits, or the defense of a proposed agency adverse action concerning benefits.

(g) *Claimant* means a person who has filed a claim, as defined by paragraph (f) of this section.

(h) *Electronic hearing* means a hearing on appeal in which an appellant or a representative participates, through voice transmission or through picture and voice transmission, by electronic or other means, in a hearing with a Member or Members sitting at the Board's principal location in Washington, DC.

(i) *Hearing on appeal* means a hearing conducted after a Notice of Disagreement has been filed in which argument and/or testimony is presented concerning the determination, or determinations, by the agency of original jurisdiction being appealed.

(j) *Law student* means an individual pursuing a Juris Doctor or equivalent degree at a school approved by a recognized accrediting association.

(k) *Legal intern* means a graduate of a law school, which has been approved by a recognized accrediting association, who has not yet been admitted to a State bar.

(l) *Motion* means a request that the Board rule on some question which is subsidiary to the ultimate decision on the outcome of an appeal. For example, the questions of whether a representative's fees are reasonable or whether additional evidence may be submitted more than 90 days after certification of an appeal to the Board are raised by motion (see Rule 609, paragraph (i), and Rule 1304, paragraph (b) §§ 20.609(i) and 20.1304(b) of this part). Unless raised orally at a personal hearing before Members of the Board, motions for consideration by the Board must be made in writing. No formal type of document is required. The motion may be in the form of a letter which contains the necessary information.

(m) *Paralegal* means a graduate of a course of paralegal instruction given by a school which has been approved by a recognized accrediting association, or an individual who has equivalent legal experience.

(n) *Past-due benefits* means a non-recurring payment resulting from a benefit, or benefits, granted on appeal or awarded on the basis of a claim reopened after a denial by the Board of Veterans' Appeals or the lump sum